

ORDINANCE NO. 28822

AN ORDINANCE OF THE CITY OF SAN JOSÉ PREZONING CERTAIN REAL PROPERTY SITUATED AT THE NORTH SIDE OF PENITENCIA CREEK ROAD, APPROXIMATELY 300 FEET WEST OF NOBLE AVENUE, FROM COUNTY OF SANTA CLARA TO A AGRICULTURAL ZONING DISTRICT

WHEREAS, all prezoning proceedings required under the provisions of Chapter 20.120 of Title 20 of the San José Municipal Code have been duly had and taken with respect to the real property hereinafter described; and

WHEREAS, the area encompassed by the subject proposed prezoning was the subject of an Environmental Impact Report (EIR) prepared in conformance with the California Environmental Quality Act of 1970 (CEQA), as amended, and certified by the City Council on August 16, 1994; and

WHEREAS, this Council of the City of San José, acting as lead agency under CEQA, proposes to approve a project which was the subject of said EIR, to wit: the adoption of an ordinance prezoning certain real property hereinafter described to A - Agricultural Zoning District; and

WHEREAS, this Council has, on August 16, 1994, adopted Resolution No. 65459; and

WHEREAS, the Council is the decision-making body for subject prezoning from unincorporated County to A - Agricultural Zoning District; and

WHEREAS, this Council does hereby certify that, as the decision-making body, it has considered and approves the information contained in such EIR and Resolution No. 65459 prior to acting upon or approving such project.

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SAN JOSE:

SECTION 1. All that real property hereinafter described in this section, hereinafter referred to as "subject property," is hereby prezoned as A-Agricultural Zoning District.

The subject property referred to in this section is all that real property situated in the County of Santa Clara, State of California, described in Exhibit "A" attached hereto and incorporated herein by this reference.

SECTION 2. The district map of the City is hereby amended accordingly.

SECTION 3. The land development approval that is the subject of City File No. C10-012 is subject to the operation of Part 2.75 of Chapter 15.12 of Title 15 of the San José Municipal Code. The applicant for or recipient of such land use approval hereby acknowledges receipt of notice that the issuance of a building permit to implement such land development approval may be suspended, conditioned or denied where the City Manager has determined that such action is necessary to remain within the aggregate operational capacity of the sanitary sewer system available to the City of San José or to meet the discharge standards of the sanitary sewer system imposed by the California Regional Water Quality Control Board for the San Francisco Bay Region.

PASSED FOR PUBLICATION of title this 5th day of October, 2010 by the following vote:

AYES: CAMPOS, CHIRCO, CHU, CONSTANT, HERRERA,
KALRA, LICCARDO, NGUYEN, OLIVERIO, PYLE; REED.

NOES: NONE.

ABSENT: NONE.

DISQUALIFIED: NONE.



CHUCK REED
Mayor

ATTEST:



LEE PRICE, MMC
City Clerk

EXHIBIT ' A ,

DESCRIPTION OF REAL PROPERTY

Annexation to the City of San Jose, State of California

Name of Annexation: Penitencia No. 77

A Zoning District

Date: 10/05/10

All of the real property situated in the County of Santa Clara, State of California being a portion of Lots 8, 9, and 10 as shown on the "Map of the reservation Tract" recorded on January 18, 1896 in Book F of Maps, at Page 46, Records of Santa Clara County, said property being partially bounded by the City Limits Line of the City of San Jose as established by City Annexations Penitencia No. 8, Penitencia No. 15, Penitencia No. 28, Penitencia No. 9, Penitencia No. 32, Penitencia No. 1-B, Penitencia No. 42, McKee No. 45-A, and Penitencia No. 35, said property being more particularly described as follows:

Beginning at the southwesterly corner of the "3.282 Ac.± Net" Parcel as shown on the Record of Survey recorded on May 17, 1960 in Book 120 of Maps, at Page 11, Records of Santa Clara County, said point being on the southwesterly line of said Lot 8, said point also being the most southerly corner of said Penitencia No. 8;

Thence along the southeasterly line of said Penitencia No. 8, along the southerly line of said "3.282 Ac.± Net" Parcel, N 69°45'00" E 528.00 feet to the southeasterly corner of said "3.282 Ac.± Net" Parcel, said point being on the southwesterly line of said Lot 9, said point also being on the general southwesterly line of said Penitencia No. 15;

Thence along said general southwesterly line of Penitencia No. 15, along said southwesterly line of Lot 9, S 20°15'00" E 415.67 feet to an angle point in said southwesterly line of Penitencia No. 15;

Thence leaving said southwesterly line of Lot 9, continuing along said general southwesterly line of Penitencia No. 15 the following two courses:

- N 73°04'35" E 508.86 feet to a point 20 feet distant, measured at a right angle, from the northeasterly line of said Lot 9;
- parallel with, and 20 feet distant southwesterly from, said northeasterly line of Lot 9, S 20°15'00" E 184.63 feet to a point on the southeasterly line of said Lot 9, also being the centerline of Penitencia Creek as shown on said Reservation Tract, said point also being the most southerly corner of said Penitencia No. 15;

Thence along the southeasterly line of said Penitencia No. 15, along said southeasterly line of Lot 9 also being said centerline of Penitencia Creek, N 80°34'00" E 20.36 feet to the most easterly corner of said Penitencia No. 15, said point being the most easterly corner of said Lot 9;

Thence along the general northeasterly line of said Penitencia No. 15, along the northeasterly line of said Lot 9, N 20°15'00" W 491.70 feet to the most southerly corner of said Penitencia

EXHIBIT ' A '

No. 28, said point being the most southerly corner of the "0.299 Ac." Parcel as shown on the Record of Survey recorded on September 10, 1968 in Book 242 of Maps, at Page 15, Records of Santa Clara County;

Thence along the general southeasterly line of said Penitencia No. 28 and along the southeasterly line of said "0.299 Ac." Parcel, N 69°46'00" E 108.56 feet to an angle point in said general southeasterly line of Penitencia No. 28, said point being the most easterly corner of said "0.299 Ac." Parcel, said point also being the most southerly corner of the "0.361 Ac.± NET" Parcel as shown on the Record of Survey recorded on December 3, 1963 in Book 170 of Maps, at Page 35, Records of Santa Clara County;

Thence leaving said general southeasterly line of Penitencia No. 28, along the general southeasterly line of said "0.361 Ac.± NET" Parcel, N 69°46'00" E 111.00 feet;

Thence leaving said general southeasterly line of "0.361 Ac.± NET" Parcel, S 49°14'00" E 61.88 feet to an angle point in the general southwesterly line of said Penitencia No. 9, also being an angle point in the general southwesterly line of Parcel "B" as shown on the Record of Survey recorded on January 17, 1967 in Book 218 of Maps, at Page 26, Records of Santa Clara County;

Thence along said general southwesterly line of said Penitencia No. 9 and of said Parcel "B", S 49°14'00" E 17.73 feet to the most southerly corner of said Penitencia No. 9 and of said Parcel "B", said point also being the most westerly corner of said Penitencia No. 32;

Thence along the southwesterly line of said Penitencia No. 32, S 21°02'10" E 175.00 feet to the most southerly corner of said Penitencia No. 32, said point being the most westerly corner of the Parcel labeled as "Santana to Freeman 10-24-50" on the Record of Survey recorded on March 8, 1956 in Book 67 of Maps, at Page 28, Records of Santa Clara County;

Thence leaving said southerly corner of Penitencia No. 32, along the southwesterly line of said "Santana to Freeman 10-24-50" Parcel, S 20°51'00" E 81.42 feet to the most southerly corner of said "Santana to Freeman 10-24-50" Parcel;

Thence along the southeasterly line of said "Santana to Freeman 10-24-50" Parcel and its northeasterly prolongation, N 73°10'00" E 358.54 feet to a point on the centerline of Noble Avenue as shown on said Record of Survey (67 M 28), said point also being on the general southwesterly line of said Penitencia No. 1-B;

Thence along said general southwesterly line of Penitencia No. 1-B, along said centerline of Noble Avenue the following two courses:

- S 49°15'00" E 27.35 feet;
- S 29°24'00" E 27.57 feet to the northeast corner of said Penitencia No. 42;

Thence leaving said centerline of Noble Avenue, along the northerly line of said Penitencia No. 42, S 73°10'00" W 375.69 feet to the northwest corner of said Penitencia No. 42;

EXHIBIT 'A'

Thence along the westerly line of said Penitencia No. 42, S 20°51'00" E 34.45 feet to the southwest corner of said Penitencia No. 42;

Thence along the southerly line of said Penitencia No. 42, N 74°45'00" E 98.46 feet to a point on said general southwesterly line of Penitencia No. 1-B, said point being on the northwesterly prolongation of the southwesterly line of Toyon Avenue as shown on the Map of Tract No. 1571 "Toyon Terrace" recorded on October 5, 1955 in Book 63 of Maps, at Page 13, Records of Santa Clara County;

Thence along said general southwesterly line of Penitencia No. 1-B and said northwesterly prolongation of the southwesterly line of Toyon Avenue, S 29°00'00" E 42.01 feet to the centerline of Penitencia Creek Road as shown on said Tract No. 1571;

Thence along said centerline of Penitencia Creek Road the following three courses:

- S 72°32'00" W 124.19 feet;
- S 47°15'55" W 212.36 feet;
- S 71°27'30" W 223.88 feet;

Thence along the centerline of Penitencia Road as shown on the Map of Tract No. 1117 "Country Club Gardens Unit No. 3" recorded on September 28, 1954 in Book 51 of Maps, at Pages 42-43, Records of Santa Clara County, the following three courses:

- S 65°50'30" W 259.26 feet;
- N 89°57'00" W 253.44 feet;
- S 77°41'00" W 174.33 feet to an angle point in the general northeasterly line of said McKee No. 45-A;

Thence long said general northeasterly line of McKee No. 45-A the following four courses:

- N 28°59'00" W 37.67 feet;
- S 72°30'00" W 87.79 feet;
- S 82°30'00" W 119.72 feet;
- N 20°15'00" W 124.08 feet to the most northerly corner of said McKee No. 45-A, said point being the southeast corner of Tract No. 4077 recorded on October 19, 1965 in Book 201 of Maps, at Page 15, Records of Santa Clara County, said point also being the most easterly corner of said Penitencia No. 35;

Thence along the general northeasterly line of said Penitencia No. 35, along the easterly line of said Tract No. 4077, N 20°15'00" E 384.98 feet to the Point of Beginning.

The described property contains approximately 13.36 acres.

This description was prepared from record information only.

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EXHIBIT ' A ,

For zoning purposes only. This description of land may not be used as the basis for an offer for sale of the land described.



Patricia A. Cannon 8/10/2010
Patricia A. Cannon, PLS 8186